

3009319

Complainant has not raised any material new matters in its petition that are not fully or adequately addressed in the final decision. In my opinion the petition is misguided, for it seeks to impose nonexistent limitations on the authority of the ALJ, and, ultimately, on the CJO and myself, i.e., the officials in whom decisionmaking authority in formal administrative enforcement proceedings is reposed. See generally 40 CFR Part 22 (1986). Complainant's position is unfounded and rests on the erroneous premise that the applicable rules do not address the procedures for reviewing compliance orders, and further that, absent express discussion of such procedures, the rules are amenable to an interpretation supporting Complainant's view that the ALJs are barred from modifying compliance orders. Petition at 2. In point of fact, the applicable rules empower the ALJs to adjudicate all issues arising in these proceedings, 40 CFR §22.04(c), and to issue an initial decision that includes a "recommended civil penalty assessment, if appropriate, and a proposed final order." 40 CFR §22.27(a). These rules apply expressly to "adjudicatory proceedings for \* \* \* [t]he issuance of a compliance order or the assessment of any civil penalty conducted under section 3008 \* \* \*." 40 CFR §22.01(a)(4). Final authority to issue compliance orders is delegated to the CJO. Delegations Manual, Delegation Nos. 1-38 and 8-27; see 40 CFR §22.04(b)(3). Accordingly, for these

reasons, and those contained in the final decision, I find no merit to Complainant's contentions. The petition for reconsideration is therefore denied.

So ordered.



Lee M. Thomas  
Administrator

Dated: 7/1/88



CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Denying Petition for Rconsideration in the matter of ARRCOM, Inc., et al., RCRA (3008) Appeal No. 86-6, were sent to the following persons in the manner indicated:

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Brenda H. Selden, Secretary  
to the Chief Judicial Officer

Dated: MAR 10 1988